

CITY OF DURHAM

To: Thomas J. Bonfield, City Manager

Through: Keith Chadwell, Deputy City Manager

From: Constance Stancil, Neighborhood Improvement Services Director

Date: May 2, 2016

Re: Modification of City of Durham's Removal of Trash and Undergrowth from Property Ordinance; Abandoned, Hazardous and Junk Vehicle Ordinance; and Periodic Inspection and Registration of Rental Dwellings

EXECUTIVE SUMMARY

As part of Neighborhood Improvement Services (NIS) efforts to ensure that Durham residents have access to safe, sanitary and decent housing, and to create a safe and aesthetically pleasing physical environment, NIS continues to examine ways to enhance the enforcement of the City of Durham's quality of life ordinances. Neighborhood Improvement Services is now bringing forward code modifications and amendments for Council's consideration and approval of:

- Chapter 10, Article VIII, Periodic Inspection and Registration of Rental Dwellings;
- Chapter 26, Article VI, Removal of Trash and Undergrowth From Property;
- Chapter 26, Article V, Division 2, Removal and Disposition of Abandoned Vehicles, Hazardous Vehicles and Junked Motor Vehicles

RECOMMENDATION

The Neighborhood Improvement Services Department recommends that the City Council:

- Conduct a public hearing and hear public comments on the below proposed ordinances;
- Adopt an ordinance amending Article VIII, Chp. 10 of the Durham City Code by deleting Division 3, captioned as "Residential Rental Property Registration" in its entirety. This division consists of Sections 10-371-378. In addition, adopt an ordinance repealing Part 5-106 of the Fee schedule captioned "Registration of Noncompliant Residential Rental Property"
- Adopt an ordinance amending Durham City Code Section 26-146 by amending the definition of "junked motor vehicle"; and
- Adopt an ordinance amending certain provisions in Article VI, Chp. 26 of the Durham City Code captioned as Removal of Trash and Undergrowth from Property.

BACKGROUND

Department of Neighborhood Improvement Services (NIS) through its Code Enforcement division is responsible for the enforcement of the City's Periodic Inspection and Registration of Rental Dwellings; Removal of Trash and Undergrowth from Property ordinance; and Removal and Disposition of Abandoned and Hazardous Vehicles and Junk Motor Vehicles ordinance. These codes and ordinances, in conjunction with the Housing Code, set and govern safety and sanitation standards for dwellings and environmental spaces, as well as promote safety and livability.

NIS reviewed the codes, related ordinances and state statutes from the perspective of: 1) alignment with NC State statutes; 2) effectiveness of codes and ordinances in responding to current conditions and resident feedback, and 3) efficient and effective practical enforcement administration.

Below is a summary of proposed modifications and amendments to the codes and ordinances.

Chapter 10, Article VIII, Periodic Inspection and Registration of Rental Dwellings

On March 5, 2012, City Council adopted an amendment to Section 1 Chapter 10 of the Durham City Code to approve an ordinance authorizing the Periodic Inspection and Registration of Rental Dwellings (Article VIII). Article VIII, Division 3, Residential Rental Property Registration, Section 10-371 – 10-374 covers the program establishment and administration, fees imposed, service of notices and application of fees.

In 2011, the N.C. General Assembly amended N.C. Gen. Stat. § 160A-424 captioned "Periodic Inspections". This legislation (G.S. 160A-424) prohibited a city from requiring an owner to obtain a rental registration permit to rent residential property except for properties that have 3 or more verified code violations, and restricted the fee amount that a City can charge for a rental registration. Furthermore, for reasons of practicality and limited staff capacity, registration of rental property was not deemed a priority; therefore, the City has never enforced the ordinance provisions requiring residential rental property registration.

The City proposes to amend Article VIII, Chapter 10, entitled, "Article VIII. Periodic Inspection and Registration of Rental Dwellings" by re-captioning it to read "Article VIII. Periodic Inspection of Rental Dwellings". The City further proposes to delete in its entirety the rental registration provisions found in Code Sections 10-371-378. "

Chapter 26, Article VI, Removal of Trash and Undergrowth from Property Ordinance

The City proposed changes to this ordinance enables the City to respond more effectively and efficiently to persistent environmental health and safety issues. Also to improve the City's ability to respond more expeditiously to resident request for assistance with public nuisance and environmental issues that negatively impact Durham neighborhoods. The proposed changes include:

- 1) Reducing the height at which grass is allowed to grow from 12 inches to 10 inches before cutting;
- 2) Additions to Ordinance:

- a) Sections 10-236(h) and 10-237 (g) –“Cleanliness of Sidewalks, Gutters and Alleys”, have been deleted from the Housing Code, modified and transferred the Trash and Undergrowth ordinance for appropriate, practical and efficient enforcement;
- b) Regulation to address interior furniture, appliances or other electronic-domestic items not intended for outdoor use;
- c) Notification and service – Notification shall be deemed sufficient when first class mail notification is attempted and notice is posted in a conspicuous place on the property; and
- d) Civil Penalty Fee reduction from \$100 for the first day to \$50 for the first day and \$50 per month; the maximum cumulative civil not exceed \$1,000.
- e) City Manager authorization to reduce or cancel abatement liens against a property when construction of affordable housing is completed on the property.

Note* A matrix which specifically details all proposed modifications to the ordinance is attached. (Attachment A: “Proposed Modifications to Removal of Trash and Undergrowth from Property Ordinance”)

Chapter 26, Article V, Division 2, Removal and Disposition of Abandoned Vehicles, Hazardous Vehicles and Junked Motor Vehicles

The department proposes to make the ordinance consistent with N.C. legislation to redefine the value junk vehicle from \$100.00 to \$500.00.

ISSUES/ANALYSIS

The City of Durham’s Minimum Housing Code and related ordinances require property owners to maintain all housing units and physical environmental spaces within the City in habitable, safe and sanitary condition. Therefore, the purpose of the code and its ordinances is to improve the quality of housing and to promote safe, decent, and vital neighborhoods for the residents of Durham. However, there are several key issues that affect the effective and efficient administration and enforcement of the codes and ordinances.

Based on documented experience, resident code enforcement service request, the recent Durham Resident Satisfaction Survey, district PACs and neighborhood groups feedback, NC legislation changes, and the April, 2016 Community Input/Feedback sessions, we have gathered data and identified key issues of concern for a varied group of stakeholders. The proposed changes, amendments and modifications have incorporated the body of knowledge and NIS’ operational experience as well as a focus on process improvement in administering the enforcement of the codes and ordinances.

In the 2015 Durham Resident Satisfaction Survey, only 37% of residents (down from 40% in 2013), stated that they were satisfied with enforcement of junk and debris cleanup on properties. As it relates to enforcement of mowing on private property in the 2015 survey, only 39% residents (down from 40% in 2013), stated they were satisfied. Sixty-nine percent of the Durham One Call code enforcement service requests are related to environmental issues of high grass, junk and debris, and front yard and porch issues. Feedback from PACs and neighborhood groups focus on environmental

issues including boarded houses as well as blighting conditions of high grass, junk/debris and the persistent practice of storage and exposure of indoor appliances and furniture in porches and yards.

Over the past six months guided by the City and department strategic plans, NIS has engaged in research and examining best practices related to code enforcement standards, application and enforcement. We have engaged in benchmarking and knowledge sharing sessions with many cities across the state including Sanford, Fayetteville, Rocky Mount, Asheville, Charlotte, Raleigh and others.

We also gave priority to feedback we regularly receive in many ways from residents, property owners, landlords, housing/community advocates, and property management organizations. We looked critically at internal processes and approaches using a forced-field analysis method to understand the current and desired future state of code enforcement administration in the City of Durham.

The highlights of department's thorough process reflected the need for the department to give priority to: strengthening and clarification of code standards; process improvement and efficiency; exterior safety and sanitation; blighting neighborhood conditions of weedy lots/high grass, junk and debris; and placement/storage of interior furniture and appliances on front porches and in yards. The department has responded to these priorities in recommended modifications and amendments to these ordinances.

ALTERNATIVE

The City Council could decide not to adopt the recommended amendments, adopt alternative recommendations or refer back to the City Manager for further consideration and study. If the City Council decides not to adopt the modifications and amendments, the existing codes and ordinances remain applicable and enforced.

FINANCIAL IMPACT

There are no fiscal impacts to the City as a result of modifying the City of Durham's Housing Code and its related ordinances.

EOEA SUMMARY

This item does not require review by the Equal Opportunity/Equity Assurance Department.

ATTACHMENTS:

- Periodic Inspection and Registration of Rental Dwellings with modifications
- Removal of Trash and Undergrowth from Property with modifications
- Removal and Disposition of Abandoned Vehicles, Hazardous Vehicles and Junked Motor Vehicles with modification
- Attachment A Removal of Trash and Undergrowth Matrix of Proposed Modifications